IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2414 OF 2005

Tanveer Yusuf Patankar & anr. ... Petitioners

Versus

Court Receiver and 10 Ors. ... Respondents

Mr. P.M. Havnur for Petitioner.

Mr. V.P. Sawant for R. No. 1.

Mr. A.A. Joshi i/by Mr. S.S. Jain for R. No. 3.

Mr. Sanjay Jain i/by T.S. Patwardhan for R. No. 4.

Mrs. Trupti Puranik for Respondent B.M.C.

CORAM: F.I. REBELLO &
ANOOP V. MOHTA,JJ.
DATED: OCTOBER 07, 2006

P.C.:

. We are convinced that this is nothing but a private dispute being agitated by the Petitioner herein. There is a society which had passed a resolution of putting up additional structure by using the F.S.I. from T.D.R. as was then available. The developer is some other person. The Government has issued notification vide order dated 21.8.2004 in purported exercise of powers under Section 154 of the M.R.T.P. Act banning use of T.D.R. by putting columns for the purpose of putting up additional floors. The Corporation itself issued circular dated 30.5.2003 adopting the policy as not to consider the proposals after 1.6.2003 in the matter of putting up of

constructions. There would no relaxation in requirement of D.C. Regulations for the proposal of additional floor over existing building by taking external columms on J/West and K/West wards. There is no dispute that the structure falls within these wards. There is also no dispute that the application was made on 29.5.2003, in other words before 31.5.2003.

. The contention of the learned counsel for the petitioner is that their application was not by properly constituted person and in these circumstances, that application ought not to have been considered. In the instant case, the application was on behalf of the society by the developer. Once that be the case, it cannot be said that the application was not in order. Whether the resolution passed by the Society was in order or not is not for this court to examine or decide as the proper forum for that is the authority under the M.C.S. Act. Considering that, no interference is called for. Petition disposed of.

(ANOOP V. MOHTA,J.) **(F.I.REBELLO, J.)**